

**IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF OKLAHOMA**

SALVADOR PEREZ, JR. )  
                          )  
                         Plaintiff, )  
                          )  
v.                       )      **No. CIV-23-322-R**  
                          )  
                          )  
MARK BOWEN, Warden, et al., )  
                          )  
                         Defendants. )

**ORDER**

This matter comes before the Court for review of the Supplemental Report and Recommendation [Doc. No. 26] issued by United States Magistrate Judge Gary M. Purcell pursuant to 28 U.S.C. § 636(b)(1)(B) and (C). Judge Purcell recommends that certain claims asserted in Plaintiff's Amended Complaint be dismissed upon screening. Plaintiff timely filed an Objection [Doc. No. 30] and the Court must therefore make a de novo determination of the portions of the Report to which a specific objection is made. 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff's Objection sets forth what appear to be additional factual allegations in support of his claims but does not specifically object to any portion of the Report. These additional allegations are not part of the pleadings and "are not determinative of whether Plaintiff adequately stated claims in his Complaint." *Scott v. Hormel*, No. CIV-18-395-SLP, 2019 WL 3935101, at \*2 n.2 (W.D. Okla. Aug. 20, 2019). Plaintiff presents no persuasive argument or authority that would cause this Court to reject Judge Purcell's

conclusions regarding the sufficiency of the allegations or the timeliness of the claims asserted in Plaintiff's Amended Complaint.

Accordingly, the Court ADOPTS the Supplemental Report and Recommendation [Doc. No. 26] in its entirety. For the reasons stated therein, Plaintiff's Eighth Amendment claims against Defendants Hood, Bowen, Blay, and Vaughn based on events occurring between March and November 2020 are dismissed with prejudice as untimely. Plaintiff's Eighth Amendment claims against Defendants Bowen and LCF Medical Head are dismissed without prejudice for failure to state a claim. Plaintiff's Eighth Amendment claim against Defendant Wallace based on excessive force is permitted to proceed at this time.

IT IS SO ORDERED this 13th day of September, 2023.



DAVID L. RUSSELL  
UNITED STATES DISTRICT JUDGE